

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of Claims:**

No claims are currently being canceled.

Claim 21 is currently being added.

Claims 19 and 20 are currently being amended.

This amendment and reply adds and amends claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After adding and amending the claims as set forth above, claims 1-17 and 19-21 are now pending in this application.

**Claim Rejections – Prior Art:**

In the Office Action, claims 1-2, 8-12 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of U.S. Patent Publication No. 2003/0152075 to Hawthorne et al. and further in view of U.S. Patent Publication No. 2002/0061745 to Ahn; claims 3 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of U.S. Patent Publication No. 2003/0156542 to Connor; claims 4, 6 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of Hawthorne et al. and Ahn, further in view of Connor; claims 5 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of Hawthorne et al. and Ahn, further in view of U.S. Patent Publication No. 2002/0058530 to Akama; claims 7 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of Hawthorne et al. and Ahn, further in view of “Overview of the IEEE 802.11 Standard,” to Geier; claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of Hawthorne et al., Ahn and Connor, further in view of “Overview of the IEEE 802.11 Standard,” to Geier; and claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in

view of Hawthorne et al., Ahn and Connor, further in view of Geier and U.S. Patent No. 6,505,114 to Luciani. These rejections are traversed with respect to the presently pending claims under rejection, for at least the reasons given below.

Presently pending independent claim 1 recites, among other things:

*a preset data storing means for storing identification data of a hot spot dealer, to which the user is subscribed, and identification data of a hot spot dealer in roaming contract relation to the user's own subscribed hot spot dealer, the identification data of the hot spot dealer to which the user is subscribed corresponding to an identification code that is unique to the hot spot dealer to which the user is subscribed and is the same for all other users who are subscribed to the hot spot dealer and does not include any data unique to the user or any of the other users; (emphasis added).*

In its rejection of claim 1, the Office Action asserts that paragraph 0110 of Barnes describes the user's own subscribed hot spot dealer as being the authentication data of the user in the system of Barnes. From this, the Office Action correctly recognizes that Barnes does not teach or suggest that the identification data of the hot spot dealer corresponds to an identification code that is unique to the hot spot dealer and is the same for all other users who are subscribed to the hot spot dealer. However, the Office Action goes on to assert that Hawthorne discloses a user that is subscribed corresponding to an identification code that is unique to a service provider that is the same for all other users who are subscribed to the service provider, and that it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Barnes and Hawthorne to use a unique service provider ID by all users to access the service provider for benefit of simplicity.

Applicant strongly disagrees with the several assertions made in the Office Action with respect to the purported combining of Barnes and Hawthorne. First, paragraphs 0110-0115 of Barnes describe that authentication data is used to determine whether a user's voice, face, iris, finger print, or other input matches data stored in memory, whereby that information is provided to a remote computer, which uses that data as **authentication data** to decide whether or not the user of the computer is an authorized user. **Clearly, this**

**authentication data in Barnes is data unique to a user, and it is not data of a hot spot dealer that is the same for each user.**

Now, why would someone modify the authentication data in Barnes to generic service provider data that is the same for all users? The answer is that one would not make such a modification, since it would destroy all of the authentication and validation purposes of that data as utilized in Barnes.

Clearly, the Office Action is applying hindsight reconstruction of the claimed invention, by cobbling the disclosures of Barnes and Hawthorne in a strange manner in order to apply them against the features recited in claim 1. Rather, one of ordinary skill in the art would not be motivated to combine the teachings of Hawthorne with those of Barnes in the manner set forth in the Office Action, whereby Ahn, the third cited reference against claim 1, does not change the fact that Barnes and Hawthorne cannot be combined as asserted in the Office Action.

Accordingly, independent claim 1, as well as independent claim 11 that recites similar features, patentably distinguish over the cited art of record.

Still further, with respect to the rejection of dependent claims 19 and 20, those claims recite that **the congestion degree is displayed on the display means having one of a plurality of colors for providing an indication of a level of congestion among a plurality of levels of congestion.** Thus, a high level of congestion may be displayed with a red color, and a moderate level of congestion may be displayed with a blue color. In its rejection of claims 19 and 20, the Office Action relies on Connor to show the use of a congestion indication header that can be used to notify a sender that it needs to slow down its data rate output. However, the congestion indicator of Connor only indicates that congestion occurs, and does not indicate a degree of congestion. The Office Action appears to recognize this deficiency of Connor, and utilizes Luciani for disclosing the use of different colors on a map to indicate a level of congestion. However, the map of Luciani is a street map, indicating traffic congestion due to the vehicles and the like, as described in column 6 of Luciani, **and thus it has nothing to do with network congestion.** Also, using the information provided by way of the congestion indication header of Connor, there would be no way to provided a congestion

degree indication on a display, since Connor can only provide a congestion/no congestion indication, and cannot provide information as to a level of congestion. Also, please note that claims 19 and 20 have been amended to in order to even more clearly distinguish over the cited art of record.

Accordingly, claims 19 and 20 are patentable for these additional reasons, beyond the reasons given above for their base claims.

**New Claim:**

New claim 21 has been added to recite features described on page 18, last paragraph, whereby such features are believed to provide an additional basis of patentability for that claim, beyond the reasons given above for its base claim.

**Conclusion:**

Since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date August 20, 2009

By Phillip J. Articola

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 945-6014  
Facsimile: (202) 672-5399

for /

George C. Beck  
Registration No. 38,072

Phillip J. Articola  
Registration No. 38,819